IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4050 OF 2006

Ramprasad Pandharinath Phad
and Anr. .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Suresh Sabrad for applicants
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 15th November 2006.

P.C.

. Applicants were apprehending arrest in connection with C.R.No.82 of 2006 registered with

Niphad Police Station. The applicants applied for anticipatory bail and on 21st July 2006 Additional Sessions Judge, Niphad allowed their application and directed that in the event of their arrest, each one of them, shall be released on bail on furnishing personal bond in the sum of Rs.15,000/-.

2. Applicants availed of this pre-arrest bail and thereafter, the charge sheet being laid in the Court of Additional Sessions Judge, Niphad, applied for regular bail. That application was rejected by the Additional Sessions Judge, Niphad on the ground that applicants have not surrendered as contemplated under Section 439 of Cr.P.C. and that is how the applicants are before me. Learned A.P.P. after taking instructions makes a statement that if the applicants surrender before the Additional Sessions Judge Niphad on 21st November 2006, prosecution would not raise any objection as

regards maintainability of their application for grant of regular bail.

3. Mr.Sabrad, appearing for applicants states that if the prosecution is not going to resist the applicant by raising technical objection, the applicants do not mind surrender before Additional Sessions Judge, Niphad on 21st November 2006.

4. In my view without entering into the larger controversy, in the light of the statement of learned A.P.P. and the agreement of Mr.Sabrad, interest of justice would be sub-served if it is directed that the applicants should surrender before Additional Sessions Judge, Niphad on 21st November 2006. Upon such surrender, Additional Sessions Judge, Niphad to consider their application for regular bail on merits and in accordance with law. The said application be disposed of as expeditiously as

possible.

5. The application being disposed of with the above directions, interest of justice would be sub-served further if the non-bailable warrants issued by Additional Sessions Judge are quashed. Accordingly, the NBAs. are quashed in the light of undertakings of applicants to remain present before Additional Sessions Judge, Niphad on 21st November 2006 at 11.00 a.m. All concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)